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I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.R. 3009, the "Andean Trade Promotion and Drug Eradication Act," would extend (through December 31, 2006) and enhance the Andean Trade Preference Act (ATPA), which expires on December 4, 2001. The purpose of the bill is to expand trade and promote economic development as a way to create viable alternatives to illicit trade in coca, thereby enhancing political security in the Andean region and the hemisphere.

B. BACKGROUND

The Andean Trade Preference Act (ATPA) was enacted on December 4, 1991 as title II of P.L. 102-182. Modeled after the Caribbean Basin Initiative (P.L. 98-67, title II), the Act authorized preferential trade benefits to four Andean countries – Bolivia, Colombia, Ecuador, and Peru. Because the ATPA's authority was limited to 10 years, it will expire on December 4, 2001, unless renewed.

The ATPA has been cornerstone of U.S. efforts to encourage the Andean countries to move out of illegal drug production and trafficking and into legitimate products. Its success is demonstrated by the growth in trade between the United States and the Andean nations. Between 1991 and 2000, total two-way trade nearly doubled: U.S. exports to the ATPA countries increased 66 percent, while imports more than doubled, rising from $5 billion to $11 billion. Although the Andean countries supply only a fraction of U.S. imports, the United States is the leading export market for each of these countries.

Another mark of the ATPA's success can be seen in the market reforms of the Andean countries. As these countries shift their polices to favor private enterprise and initiative and open their markets to the free flow of goods and services, they are realizing that legitimate trade creates jobs, reduces poverty, and decreases the incentive to trade in illegal narcotics.

C. LEGISLATIVE HISTORY

Committee action

H.R.3009, the Andean Trade Promotion and Drug Eradication Act, was introduced

on October 3, 2001, by Congressman Crane, on behalf of himself, and Chairman Thomas. The bill was referred to the Committee on Ways and Means.

On October 5, 2001, the Committee on Ways and Means met to consider H.R. 3009. At that time, Chairman Thomas offered an amendment in the nature of a substitute which was adopted by voice vote. An amendment offered by Mr. Rangel to allow Namibia and Botswana to use third country fabric for the transition period under the regional fabric cap established in the Africa Growth and Opportunity Act (AGOA,) was accepted by voice vote. An amendment offered by Mr. Rangel to add tuna and tuna products to the list of items excluded from duty-free treatment under the bill was defeated by a roll call vote of 17 yeas to 23 nays. The Committee then ordered the bill favorably reported, as amended, by voice vote.

Legislative hearing and oversight

On May 8, 2001 the Trade Subcommittee held a hearing on the prospects and timing for achieving the Free Trade Area of the Americas (FTAA) and on proposals to increase trade with Andean countries through the extension and expansion of the Andean Trade Preference Act. The Subcommittee received testimony from both invited and public witnesses, many of whom stressed the importance of expanding trade and investment relations with Andean countries in order to create legitimate economic alternatives to the illicit production of coca in the region. Testimony in favor of expanding trade benefits available under the Andean Trade Preference Act was received from the U.S. Trade Representative, Ambassador Robert Zoellick.

II. EXPLANATION OF THE BILL

SECTION 1: SHORT TITLE

Present law

No provision.

Explanation of the bill

Section 1 of H.R.3009, as amended, provides that the Act may be cited as the

"Andean Trade Promotion and Drug Eradication Act."

Reasons for change

This section names the legislation for identification purposes.

SECTION 2: FINDINGS

Present law

No provision.

Explanation of provision

Section 2 contains findings of Congress that:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counter narcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provide sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed

through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005 as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

Reason for change

Section 2 expresses the Committee's view that extension and enhancement of the Andean Trade Preference Act will promote free enterprise as an engine of economic development that will create viable alternatives to illicit trade in coca, thereby enhancing political security in the region.

SECTION 3: ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT

Articles (Except Apparel) Eligible for Preferential Treatment

Present law

The Andean Trade Preference Act (ATPA), enacted on December 4, 1991 as title II of Public Law 102-182, authorizes preferential trade benefits for the Andean nations of Bolivia, Colombia, Ecuador, and Peru, similar to those benefits granted to beneficiaries under the Caribbean Basin Initiative program. The ATPA authorizes the President to

proclaim duty-free treatment for all eligible articles from Bolivia, Colombia, Ecuador, Peru. This authority applies only to normal column 1 rates of duty in the Harmonized Tariff Schedule of the United States (HTS); any additional duties imposed under U.S. unfair trade practice laws, such as the antidumping or countervailing duty laws, are not affected by this authority.

The ATPA contains a list of products that are ineligible for duty-free treatment. More specifically, ATPA duty-free treatment does not apply to textile and apparel articles that are subject to textile agreements; petroleum and petroleum products; footwear not eligible for duty-free treatment under the Generalized System of Preferences; certain watches and watch parts; certain leather products; and sugar, syrups and molasses subject to over-quota rates of duty.

Explanation of provision

Section 3 (a) amends the Andean Trade Preference Act to authorize the President to proclaim duty-free treatment for any of the following articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries:

1) Footwear not designated at the time of the effective date of this Act as eligible for the purposes of the Generalized System of Preferences under title V of the Trade Act of 1974;

2) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

(3) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

(4) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that-- (i) are the product of any beneficiary country; and (ii) were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences under title V of the Trade Act of 1974.

Under H.R. 3009, textiles subject to textile agreements; sugar, syrups and molasses subject to over-quota tariffs; and rum and tafia classified in subheading

2208.40.00 of the HTS would continue to be ineligible for duty-free treatment, as would apparel products other than those specifically described below. Imports of tuna, prepared or preserved in any manner, in airtight containers would receive immediate duty-free treatment.

Reason for change

The Committee believes that extending and enhancing economic benefits to countries under the Andean Trade Preference Act, by authorizing duty-free treatment for products excluded from duty-free treatment under current law, as long as they are not import-sensitive, will promote economic alternatives to the production of illicit drugs, while encouraging these nations to make necessary economic reforms.

Eligible Apparel Articles

Present law

Under the ATPA, apparel articles are on the list of products excluded from eligibility for duty-free treatment.

Explanation of provision

Under Section 3, the President may proclaim duty-free and quota-free treatment for apparel articles sewn or otherwise assembled in one or more beneficiary countries exclusively from any one or any combination of the following:

1) Fabrics or fabric components formed, or components knit-to-shape, in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States).

2) Fabrics or fabric components formed, or components knit-to-shape, in one or more beneficiary countries, from yarns formed in one or more beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries) are in chief weight of <u>llama</u>, or <u>alpaca</u>.

3) Fabrics or yarn not produced in the United States or in the region, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA (short supply provisions). Any interested party may request the

President to consider such treatment for additional fabrics and yarns on the basis that they cannot be supplied by the domestic industry in commercial quantities in a timely manner,and the President must make a determination within 60 calendar days of receiving the request from the interested party.

4) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics or fabric components formed or components knit-to-shape, in one or more beneficiary countries, from yarns formed in the United States or in one or more beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in one or more beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape in the United States described in paragraph 1. Imports of apparel made from regional fabric and regional yarn would be capped at 3% of U.S. imports growing to 6% of U.S. imports in 2006, measured in square meter equivalents.

Reason for change

As described above, the Committee believes that extending and enhancing economic benefits to countries under the Andean Trade Preference Act, by authorizing duty-free treatment for certain products excluded from duty-free treatment under current law, will promote economic alternatives to the production of illicit drugs, while encouraging these nations to make necessary economic reforms. The Committee believes that an ATPA enhancement bill should be tailored to the nature of textile and apparel production in the region. Unlike the Caribbean Basin region, the Andean region produces much of its own fabric and yarn. A bill that made benefits contingent on U.S. fabric and yarn content would provide very little benefit to Andean countries. In addition, the region manufactures a considerable amount of woven fabric, so limiting the use of regional fabric to knit fabric made of U.S. yarn, as in Caribbean Basin Trade Partnership Act, would not provide meaningful benefits to Andean economies.

Penalties for Transshipment

Present law

The Tariff Act of 1930, as amended, provides for civil monetary penalties for unlawful transshipment. These include penalties under section 1592 for up to a

maximum of the domestic value of the imported merchandise or eight times the loss of revenue, as well as denial of entry, redelivery or liquidated damages for failure to redeliver the merchandise determined to be inaccurately represented. In addition, an importer may be liable for criminal penalties, including imprisonment for up to five years, under section 1001 of title 18 of the United States Code for making false statements on import
documentation.

Under the North American Free Trade Agreement (NAFTA), Parties to the Agreement must observe Customs procedures and documentation requirements, which are established in Chapter 5 of NAFTA. Requirements regarding Certificates of Origin for imports receiving preferential tariffs are detailed in Article 502.1 of NAFTA**.**

Explanation of provision

Section 3 requires that importers comply with requirements similar in all material respects to the requirements regarding Certificates of Origin contained in Article 502.1 of the North American Free Trade Agreement (NAFTA) for a similar importation from Mexico.

In addition, if an exporter is determined under the laws of the United States to have engaged in illegal transshipment of apparel products from an Andean country, then the President shall deny all benefits under the bill to such exporter, and to any successors of such exporter, for a period of two years.

In cases where the President has requested a beneficiary country to take action to prevent transshipment and the country has failed to do so, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from that country by three times the quantity of articles transshipped, to the extent that such action is consistent with World Trade Organization (WTO) rules.

Reason for change

The Committee believes these hard-hitting transshipment provisions will address concerns raised by the textile and apparel industry that increasing trade with the Andean countries could result in illegal transshipment of textile and apparel products through the region.

Import Relief Actions

Present law

The import relief procedures and authorities under sections 201-204 of the Trade Act of 1974 apply to imports from ATPA beneficiary countries, as they do to imports from other countries. If ATPA imports cause serious injury, or threat of such injury, to the domestic industry producing a like or directly competitive article, section 204(d) of the ATPA authorizes the President to suspend ATPA duty-free treatment and proclaim a rate of duty or other relief measures.

Under NAFTA, the United States may invoke a special safeguard provision at any time during the tariff phase-out period if a NAFTA-origin textile or apparel good is being imported in such increased quantities and under such conditions as to cause "serious damage, or actual threat thereof," to a domestic industry producing a like or directly competitive good. The President is authorized to either suspend further duty reductions or increase the rate of duty to the NTR rate for up to three years.

Explanation of provision

Under Section 3(E) normal safeguard authorities under ATPA would apply to imports of all products except textiles and apparel. A NAFTA equivalent safeguard authorities would apply to imports of apparel products from ATPA countries, except that, United States, if it applied a safeguard action, would not be obligated to provide equivalent trade liberalizing compensation to the exporting country.

Reason for change

The Committee believes that NAFTA equivalent safeguard authority is appropriate in order to ensure that the domestic apparel industry is not damaged by increased imports from the Andean region.

Designation Criteria

Present law

In determining whether to designate any country as an ATPA beneficiary country, the President must take into account seven mandatory and 12 discretionary criteria, which are listed in section 203 of the ATPA.

Under Section 203 of the ATPA, the President shall not designate any country a ATPA beneficiary country if:

1) the country is a Communist country;

2) the country has nationalized, expropriated, imposed taxes or other exactions or otherwise seized ownership or control of U.S. property (including intellectual property), unless he determines that prompt, adequate, and effective compensation has been or is being made, or good faith negotiations to provide such compensation are in progress, or the country is otherwise taking steps to discharge its international obligations, or a dispute over compensation has been submitted to arbitration;

3) the country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of U.S. citizens;

4) the country affords "reverse" preferences to developed countries and whether such treatment has or is likely to have a significant adverse effect on U.S. commerce;

5) a government-owned entity in the country engages in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent or the country fails to work toward the provision of adequate and effective intellectual property rights;

6) the country is not a signatory to an agreement regarding the extradition of U.S. citizens;

7) if the country has not or is not taking steps to afford internationally recognized worker rights to workers in the country;

In determining whether to designate a country as eligible for ATPA benefits, the President shall take into account (discretionary criteria):

1) an expression by the country of its desire to be designated;

2) the economic conditions in the country, its living standards, and any other appropriate economic factors;

3) the extent to which the country has assured the United States it will provide

equitable and reasonable access to its markets and basic commodity resources;

4) the degree to which the country follows accepted rules of international trade under the World Trade Organization;

5) the degree to which the country uses export subsidies or imposes export performance or local content requirements which distort international trade;

6) the degree to which the trade policies of the country are contributing to the revitalization of the region;

7) the degree to which the country is undertaking self-help measures to protect its own economic development;

8) whether or not the country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized workers rights;

9) the extent to which the country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive intellectual property rights;

10) the extent to which the country prohibits its nationals from engaging in the broadcast of copyrighted material belonging to U.S. copyright owners without their express consent;

11) whether such country has met the narcotics cooperation certification criteria of the Foreign Assistance Act of 1961 for eligibility for U.S. assistance; and

12) the extent to which the country is prepared to cooperate with the United States in the administration of the Act.

Under the ATPA the President is prohibited from designating a country a beneficiary country if any of criteria (1)-(7) apply to that country, subject to waiver if the President determines that country designation will be in the U.S. national economic or security interest. The waiver does not apply to criteria (4) and (6). Under the ATPA criteria on (7) is included as both mandatory and discretionary.

The President may withdraw or suspend beneficiary country status or duty-free treatment on any article if he determines the country should be barred from designation as

a result of changed circumstances. The President must submit a triennial report to the Congress on the operation of the program. The report shall include any evidence that the crop eradication and crop substitution efforts of the beneficiary country are directly related to the effects of the legislation

Explanation of provision

Section 3 provides that the President, in designating a country as eligible for the enhanced ATPDEA benefits, shall take into account the existing eligibility criteria established under ATPA described above, as well as other appropriate criteria, including: whether a country has demonstrated a commitment to undertake its WTO obligations and participate in negotiations toward the completion of the FTAA or comparable trade agreement; the extent to which the country provides intellectual property protection consistent with or greater than that afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights; the extent to which the country provides internationally recognized worker rights; whether the country has implemented its commitments to eliminate the worst forms of child labor; the extent to which a country has taken steps to become a party to and implement the Inter-American Convention Against Corruption; and the extent to which the country applies transparent, nondiscriminatory and competitive procedures in government procurement equivalent to those included in the WTO Agreement on Government Procurement and otherwise contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

In evaluating a potential beneficiary's compliance with its WTO obligations, the Committee expects the President to take account the extent to which the country follows the rules on customs valuation set forth in the WTO Customs Valuation Agreement. With respect to intellectual property protection, it is the intention of the conferees that the President will also take into account the extent to which potential beneficiary countries are providing or taking steps to provide protection of intellectual property rights comparable to the protections provided to the United States in bilateral intellectual property agreements.

The Committee has serious concerns about the Government of Colombia's compliance with the mandatory condition for eligibility in Section 203 (c) (2) relating to protections of property and businesses owned by U.S. citizens. The Committee urges the Government to resolve its outstanding disputes with US corporations immediately. The Committee reminds the Government of Colombia it is obligated, as a beneficiary of the ATPA program, to fulfill its responsibility toward US corporations which have received favorable arbitral awards from internationally recognized arbitration panels.

Unfortunately, the Committee is aware of several cases in which the Colombian Government has ignored these obligations, in clear violation of the ATPA. For example, despite a binding arbitration award by an official tribunal of the Government of Colombia to Nortel Networks, the Government of Colombia has not paid Nortel. Similarly, in December 2000, TermoRio, a power plant project which included Sithe Energies, received a $60.3 million award in a binding arbitration by a tribunal of Colombian legal scholars under the auspices of the Centro de Conciliacion y Arbitraje de la Camara de Comericio de Barranquilla and the International Chamber of Commerce. The Committee urges the Government of Colombia to comply with such decisions and compensate Nortel, Sithe Energies and other U.S. corporations appropriately in order to maintain its beneficiary status under status ATPA.

Since April 1995, Colombia has applied a variable import duty system, known as the "price band" system, on fourteen basic agriculture products such as wheat, corn, and soybean oil. An additional 147 commodities, considered substitutes or related products, are subject to the price band system which establishes ceiling, floor, and reference prices on imports. The Committee's view is that the price band system is non-transparent and easily manipulated as a protectionist device. In early 2000, the United States reached agreement with Colombia in the WTO that Colombia would delink wet pet food, the only finished product in this system, from the price band system. In implementing the eligibility criteria relating to market access and implementation of WTO commitments, it is the Committees intent that USTR insist that Colombia implement its WTO commitment to remove pet food from the price band tariff system and to apply the 20% common external tariff to imported pet food.

With respect to whether beneficiary countries are following established WTO rules, the Committee believes it is important for Andean governments to provide transparent and non-discriminatory regulatory procedures. Unfortunately, the Committee knows of instances where regulatory policies in Andean countries are opaque, unpredictable, and arbritarily applied. As such, its is the Committee's view that Andean countries that seek trade benefits should adopt, implement, and apply transparent and non-discriminatory regulatory procedures. The development of such procedures would help create regulatory stability in the Andean region and thus provide mere certainty to U.S. companies that would like to invest in these countries.

SECTION 4: TERMINATION OF DUTY-FREE TREATMENT

Present law

Duty-free treatment under the ATPA expires on December 4, 2001.

Explanation of provision

Duty-free treatment terminates under the Act on December 31, 2006.

Reason for change

A termination date one year after the scheduled conclusion of negotiations to establish the Free Trade Area of the Americas will provide a necessary transition period to phase in reductions in duties pursuant to the larger hemispheric agreement.

SECTION 5. TRADE BENEFITS UNDER THE CARIBBEAN BASIN TRADE PARTNERSHIP ACT (CBTPA AND THE AFRICA GROWTH AND OPPORTUNITY ACT (AGOA)

Knit-to-shape Apparel

Present law

Draft regulations issued by Customs to implement P.L. 106-200 stipulate that knit-to-shape garments, because technically they do not go through the fabric stage, are not eligible for trade benefits under the act.

Explanation of provision

Sec. 5 of H.R. 3009 amends AGOA and CBTPA to clarify that preferential treatment is provided to knit-to-shape apparel articles assembled in beneficiary countries.

Reason for change

Although the Committee believes that the AGOA and CBTPA language stated clearly that knit-to-shape apparel articles are to receive benefits, draft Customs regulations do not so provide. Accordingly, this provision gives effect to Congressional intent.

Present law

Draft regulations issued by Customs to implement P.L. 106-200 deny preferential

access to garments that are cut both in the United States and beneficiary countries, on the rationale that the legislation does not specifically list this variation in processing (the so-called “hybrid cutting problem”).

Explanation of provision

Sec. 5 of H.R. 3009 adds new rules in CBTPA and AGOA to provide preferential treatment for apparel articles that are cut both in the United States and beneficiary countries.

Reason for change

Although the Committee believes that the CBTPA and AGOA language stated clearly that articles that are both cut in the United States and beneficiary countries, draft Customs regulations do not so provide. Accordingly, this provision gives effect to Congressional intent.

CBI Knit Cap

Present law

P.L. 106-200 extended duty-free benefits to knit apparel made in CBI countries from regional fabric made with U.S. yarn and to knit-to-shape apparel (except socks), up to a cap of 250,000,000 square meter equivalents (SMEs), with a growth rate of 16% per year for first 3 years.

Explanation of provision

Sec. 5 of H.R. 2009 would raise this cap to the following amounts: 250,000,000 SMEs for the 1-year period beginning October 1, 2001; 500,000,000 SMEs for the 1-year period beginning on October 1, 2002; 850,000,000 SMEs for the 1-year period beginning on October 1, 2003; 970,000,000 SMEs in each succeeding 1-year period through September 30, 2009.

Reason for change

Now that P.L. 106-200 has been in effect for one year, the Committee believes it is appropriate to increase these caps.

CBI T-shirt cap

Present law

P.L. 106-200 extends benefits for an additional category of CBI regional knit apparel products (T-shirts) up to a cap of 4.2 million dozen, growing 16% per year for the first 3 years.

Explanation of provision

Section 5 of H.R 3009 would raise this cap to the following amounts: 4,200,000 dozen during the 1-year period beginning October 1, 2001; 9,000,000 dozen for the 1-year period beginning on October 1, 2002; 10,000,00 dozen for the 1-year period beginning on October 1, 2003; 12,000,000 dozen in each succeeding 1-year period through September 30, 2009.

Reason for change

Now that P.L. 106-200 has been in effect for one-year, the Committee believes it is appropriate to increase these caps in current law which will limit trade under the bill in the future

Present law

Section 112(b)(3) of the AGOA provides preferential treatment for apparel made in beneficiary sub-Saharan African countries from "regional" fabric (i.e., fabric formed in one or more beneficiary countries) from yarn originating either in the United States or one or more such countries. Section 112(b)(3)(B) establishes a special rule for lesser developed beneficiary sub-Saharan African countries, which provides preferential treatment, through September 30, 2004, for apparel wholly assembled in one or more such countries regardless of the origin of the fabric used to make the articles. Section 112(b)(3)(A) establishes a quantitative limit or "cap" on the amount of apparel that may be imported under section 112(b)(3) or section 112(b)(3)(B). This "cap" is 1.5 percent of the aggregate square meter equivalents of all apparel articles imported into the United States for the year that began October 1, 2000, and increases in equal increments to 3.5 percent for the year beginning October 1, 2007.

Explanation of provision

Section 5 would clarify that apparel wholly assembled in one or more beneficiary sub-Saharan African countries from components knit-to-shape in one or more such countries from U.S. or regional yarn is eligible for preferential treatment under section 112(b)(3) of AGOA. Similarly, Section 5 would clarify that apparel knit-to-shape and wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries is eligible for preferential treatment, regardless of the origin of the yarn used to make such articles. Section 5 also would increase the "cap" by changing the applicable percentages from 1.5 percent to 3 percent in the year that began October 1, 2000, and from 3.5 percent to 7 percent in the year beginning October 1, 2007.

Present law

AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. AGOA was supposed to provide duty-free, quota-free treatment to sweaters knit in African beneficiary countries from fine merino wool yarn, regardless of where the yarn was formed. However, due to a drafting problem, the wrong diameter was included, making it impossible to use the provision.

Explanation of provision

Section 5 corrects the yarn diameter in the AGOA legislation so that sweaters knit to shape from merino wool of a specific diameter are eligible.

Reason for change

This provision gives effect to Congressional intent in the AGOA legislation.

Africa: Namibia and Botswana

Present Law

The GDBs of Botswana and Namibia exceed the LLDC limit of $1500 and therefore these countries are not eligible to use third country fabric for the transition period under the AGOA regional fabric country cap.

Explanation of provision

Section 5 allows Namibia and Botswana to use third country fabric for the transition period under the AGOA regional fabric country cap.

Reason for change

Because, neither Botswana nor Namibia has regional fabric making capacity, both countries need the ability to use third country fabric for a limited period to assist in the development of their indigenous textile and apparel industries.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 3009.

VOTES ON AMENDMENTS

A roll call vote was conducted on the following amendment to the Chairman=s amendment in the nature of a substitute.

An amendment by Mr. Rangel, to the Chairman's amendment in the nature of a substitute to add tuna or tuna products to the list of items that are excluded from duty-free treatment under the bill, was defeated by a roll call vote of 17 yeas to 23 nays. The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Thomas.....		X		Mr. Rangel.....	X		
Mr. Crane.....		X		Mr. Stark.....	X		
Mr. Shaw.....		X		Mr. Matsui.....	X		
Mrs. Johnson.....		X		Mr. Coyne.....		X	
Mr. Houghton.....				Mr. Levin.....	X		
Mr. Herger.....		X		Mr. Cardin.....	X		
Mr. McCrery.....		X		Mr. McDermott.....	X		
Mr. Camp.....		X		Mr. Kleczka.....	X		
Mr. Ramstad.....		X		Mr. Lewis (GA).....	X		
Mr. Nussle.....		X		Mr. Neal.....	X		
Mr. Johnson.....		X		Mr. McNulty.....	X		
Ms. Dunn.....		X		Mr. Jefferson.....	X		
Mr. Collins.....	X			Mr. Tanner.....	X		
Mr. Portman.....		X		Mr. Becerra.....	X		
Mr. English.....		X		Mrs. Thurman.....	X		
Mr. Watkins.....		X		Mr. Doggett.....	X		
Mr. Hayworth.....		X		Mr. Pomeroy.....	X		
Mr. Weller.....		X					
Mr. Hulshof.....		X					
Mr. McInnis.....		X					
Mr. Lewis (KY).....		X					
Mr. Foley.....		X					
Mr. Brady.....		X					
Mr. Ryan.....		X					

MOTION TO REPORT THE BILL

The bill, H.R. 3009, was ordered favorably reported by voice vote (with a quorum being present).

IV. BUDGET EFFECTS

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this bill, H.R. 3009 as reported: The Committee agrees with the estimate prepared by CBO which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that enactment of H.R. 3009 would reduce customs duty receipts due to lower tariffs imposed on goods from Andean countries.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

[INSERT CBO LETTER]

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, concluded that it is appropriate and timely to consider the bill as reported.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article 1 of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for *** the general Welfare of the United States.")

CONGRESSIONAL BUDGET OFFICE
U.S. CONGRESS
WASHINGTON, DC 20515

Dan L. Crippen
Director

October 11, 2001

Honorable William "Bill" M. Thomas
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3009, the Andean Trade Promotion and Drug Eradication Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Erin Whitaker, who can be reached at 226-2720.

Sincerely,

Dan L. Crippen

Enclosure

cc: Honorable Charles B. Rangel
Ranking Democrat

CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 10, 2001

H.R. 3009
Andean Trade Promotion and Drug Eradication Act

As ordered reported by the House Committee on Ways and Means on October 5, 2001

SUMMARY

H.R. 3009 would extend the period in which preferential treatment provided to certain products of countries under the Andean Trade Preference Act (ATPA) is in effect. In addition, the bill would provide preferential treatment under ATPA for additional articles, including certain footwear and petroleum products. The bill also would extend preferential treatment to knit-to-shape apparel articles imported from countries under the Caribbean Basin Economic Recovery Act (CBERA) and the African Growth and Opportunity Act (AGOA).

The Congressional Budget Office estimates that enacting the bill would reduce revenues by $41 million in 2002, by $247 million over the 2002-2006 period, and by $263 million over the 2002-2011 period. Because enacting H.R. 3009 would affect receipts, pay-as-you-go procedures would apply. CBO has determined that H.R. 3009 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3009 is shown in the following table.

	By Fiscal Year, in Millions of Dollars				
	2002	2003	2004	2005	2006
CHANGES IN REVENUES					
Estimated Revenues	-41	-47	-50	-53	-57

BASIS OF ESTIMATE

ATPA is scheduled to expire on December 4, 2001. H.R. 3009 would extend the ATPA program until December 31, 2006. Several products of beneficiary countries would continue to receive preferential duty treatment if the bill were enacted. Based on information from the International Trade Commission and other trade sources, CBO estimates that extending the ATPA program would reduce revenues by $18 million in 2002, by $119 million over the 2002-2006 period, and by $126 million over the 2002-2007 period.

Under current law, ATPA does not extend preferential treatment to footwear that is ineligible for treatment under the generalized system of preferences (GSP), petroleum and certain products derived from petroleum, watches and watch parts containing material that is the product of countries not receiving normal trade relations (NTR) treatment, certain sugars and molasses, and certain leather goods. H.R. 3009 would allow the President to extend duty-free treatment to those products. CBO expects that all imports of these products would receive duty-free treatment.

Under current law, apparel articles that are the product or manufacture of an ATPA beneficiary country are entitled to preferential treatment. The bill would allow apparel articles assembled from fabrics formed or knit-to-shape in the United States and certain other apparel articles to receive duty-free treatment. Apparel articles assembled from regional fabrics would also receive preferential treatment if they do not exceed certain percentages of imports on apparel articles. All preferential treatment would expire after December 31, 2006. Based on information from the International Trade Commission, the Office of Textiles and Apparel in the Department of Commerce, and private-sector sources, CBO estimates that if enacted, the provisions that expand ATPA treatment to new products would reduce revenues by $22 million in 2002, by $125 million over the 2002-2006 period, and by $132 million over the 2002-2011 period.

H.R. 3009 would extend preferential treatment to apparel articles formed from components knit-to-shape in the United States for beneficiary countries under CBERA and AGOA. It would also increase the amount of certain apparel articles assembled from regional fabrics that would receive preferential treatment. Preferential treatment for the beneficiary countries is scheduled to expire after September 30, 2008. Based on information from the International Trade Commission, the Office of Textiles and Apparel in the Department of Commerce, and private-sector sources, CBO estimates that if enacted, these provisions would reduce revenues by $1 million in 2002, by $3 million over the 2002-2006 period, and by $5 million over the 2002-2008 period.

PAY-AS-YOU-GO CONSIDERATIONS

The Balanced Budget and Emergency Deficit Control Act sets up procedures for legislation affecting receipts or direct spending. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By Fiscal Year, In Millions of Dollars									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in receipts	-41	-47	-50	-53	-57	-16	-1	0	0	0
Changes in outlays	Not applicable									

IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

ESTIMATE PREPARED BY:

Federal Revenues: Erin Whitaker (226-2720)
Impact on State, Local, and Tribal Governments: Elyse Goldman (225-3220)
Impact on the Private Sector: Paige Piper/Bach (226-2940)

ESTIMATE APPROVED BY:

Roberton Williams
Assistant Director for Tax Analysis

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

[INSERT TEXT FROM LEGISLATIVE COUNSEL]

VII. ADDITIONAL VIEWS

[INSERT ADDITIONAL VIEWS]